
IN THE SUPREME COURT OF PENNSYLVANIA

No. 102 MM 2022

DAVID BALL, et al.,

V.

**LEIGH M. CHAPMAN, IN HER OFFICIAL CAPACITY AS ACTING
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA, et al.,**

RESPONDENTS.

**OPPOSITION OF RESPONDENTS ALLEGHENY, BUCKS,
CHESTER, DELAWARE, MONTGOMERY, AND PHILADELPHIA
COUNTY BOARDS OF ELECTIONS TO BLAIR COUNTY’S
MOTION FOR RECONSIDERATION**

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On November 5, 2022, this Court issued its supplemental order, which provided the County Boards of Elections with additional instructions regarding the treatment of “incorrectly dated outer envelopes.” Specifically, this Court provided that the County Boards set aside mail-in ballots where the outer envelopes bore dates “outside the date range of September 19, 2022, through November 8, 2022” and absentee ballots with outer envelopes bearing dates “outside the date range of August 30, 2022, through November 8, 2022.” Blair County’s Motion for reconsideration of the supplemental order should be denied. Further changes to the standard for evaluating mail-in and absentee ballot dates the day before the 2022 General Election will be burdensome and difficult to implement, will create additional voter confusion, and will undermine the diligent work that the undersigned Counties already have undertaken to implement the Court’s November 5, 2022, supplemental order

First, modification of this Court’s supplemental order, as requested by Blair County, would impose a significant burden on the canvassing process of the undersigned Counties. This Court’s supplemental order set a fixed date range for incorrect dates on mail-in and absentee ballots. That provides both clarity across the Commonwealth as well as an easily utilized benchmark for the individual people who conduct the Pre-Canvass by hand. In contrast, Blair County’s request would require those pre-canvassers to perform an individualized date-comparison for each

ballot—individually comparing the handwritten mail-in ballot date to the date the voter could have received the ballot according to the SURE system. *See* Blair County Motion, at 1-2. This would require entirely restructuring the canvassing process in the undersigned counties a day before the Pre-Canvass begins, would entail substantially more time per ballot, and would introduce the potential for human error because the manual date comparison to the SURE system on a ballot-by-ballot basis is more complex, and therefore more prone to error, than the process necessary to implement this Court’s November 5, 2022 supplement order. With over 100,000 mail-in ballots in some counties, the additional time per ballot and increased potential for human error are significant and important reasons to deny Blair County’s request.

Second, the changes to the canvassing process are further problematic because the operational planning and training for the canvassing operation are well underway. The undersigned Counties have already taken steps to implement this Court’s November 5, 2022 order. Specifically, the in-person training of canvass staff required to conform to the Court’s order began this morning. That work would have to be recreated whole cloth on the eve of the election were Blair County’s request granted. Adjusting and retraining that staff before the beginning of pre-canvass tomorrow would not only add confusion and cause delay in the canvassing

process, but it would also unduly burden the County Boards and impair their ability to run a fair and orderly election.

And third, the challenges posed by Blair County's requested relief would not solely be borne by County Boards. Voters would be harmed as well. Additional modifications to the dating requirements are certain to create confusion and concern for voters just before Election Day. Press reports on the issue have noted the "scramble" to determine which mail ballots will count and the "uncertainty" among not only the Counties, but also the voting public.¹ Another change would only serve to deepen that challenge for the voting public. Such changes are not warranted given the clarity of this Court's November 5, 2022, order with respect to the applicable date ranges.

The undersigned Counties make this Opposition without waiver of any objections they may have to the Court's November 1, 2022 and November 5, 2022 Orders.

Accordingly, the undersigned Counties respectfully request this Court deny Blair County's request for reconsideration.

¹ See, e.g., <https://www.inquirer.com/politics/election/pennsylvania-undated-ballots-supreme-court-wrongly-dated-lawsuit-20221105.html>.

Dated: November 7, 2022

Respectfully submitted,

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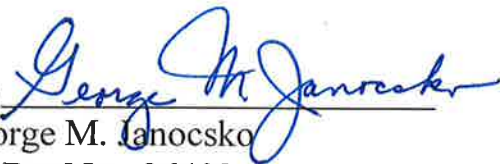
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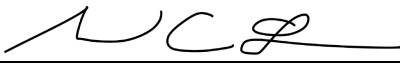
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**CERTIFICATE OF COMPLIANCE
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I certify that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: November 7, 2022

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RULE 2135(d) CERTIFICATE OF COMPLIANCE

I certify pursuant to Pa.R.A.P. 2135(d) that this brief contains fewer than the 14,000 words, excluding the supplementary matter outlined in Pa.R.A.P. 2135(b), as determined using Microsoft Word for Office 365 software, and therefore complies with the word count limit set forth in Pa. R.A.P. 2135(a).

Dated: November 7, 2022

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